MGN

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO.3290 OF 2007

Shri Rajkumar Janardan Kamble...Petitioner

Versus

The State of Maharashtra & Ors....Respondents

Mr. V.A. Gangal with Mr. Ashok T. Gade, for the Petitioner.
Mr. V.A. Sonpal, AGP for Respondents.

CORAM : F.I. REBELLO &
R.M.SAVANT, JJ.
DATED : 15th June, 2007

P.C.

. The petitioner herein claims deemed date in respect of his direct appointment as Assistant Executive Engineer. His entire case is based on an order passed in favour of one Shri Dhumal, who did not belong to his batch. Learned Counsel draws our attention to the Maharashtra Civil Services (Seniority) Rules, 1982 and more specifically Rule 5. A perusal of Rule 5 indicates that Rule 5(1) will be attracted in the event the other sub-rules are attracted. In other words if in the same batch some person for some reasons did not join then it is open to the State Government or recommendation by the Competent Authority to give him deemed date. In the instant case the petitioner did not belong to Dhumal's batch. It is also not the case of the petitioner that in so far as his batch is concerned though he was meritorious others are shown senior to him. The question of comparison between Dhumal and the petitioner does not arise.

2. It is settled law that it is the date of appointment

which normally is considered as the date of seniority. In the instant case the petitioner has been given his date of seniority based on his appointment. The Tribunal has considered all these aspects and has also held that there is no rule for giving deemed date. As we have pointed out the said Rule applies to a different context. In the light of that we do not find that the impugned order of the Tribunal suffers from any error apparent on the face of the record.

No interference called for. Hence petition rejected.

(**F.I.REBELLO**, J)

(**R.M. SAVANT,J)**